vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.2771 OF 2001

Agricultural Produce Market
Samiti, Islampur, Tal.: Walva
Dist.:Sangli ... Petitioner

V/s.

1. The State of Maharashtra

2. The Director of Marketing

3. The Collector of Sangli, Sangli

4. Deputy Registrar
Co-operative Societies, Sangli

5. Gram Panchayat Mangale
Tal.: Shirala, Dist.: Sangli

6. Grampanchayat Shirala
Taluka Shirala, Dist.:Sangli

7. Grampanchayat Charan
Tal.:Shirala, Dist.:Sangli ... Respondents

Mr.Vijay Patil for Petitioner
Mr.P.I. Khemani, AGP, for Respondent Nos.1 to 4

CORAM: **V.G. PALSHIKAR, Ag.C.J &**
SMT.NISHITA MHATRE, J.

DATED: **FEBRUARY 6, 2006**

ORAL JUDGMENT (PER PALSHIKAR, Ag.C.J.):

. By this Petition, the Petitioner has challenged the action of Respondent Nos.5 to 7 which are village panchayats to collect cess or market fee from persons marketing within the area of the village presumably on the ground that though the Agricultural Produce Market

Committee, Islampur is the Committee which can regulate the marketing, no occupation of any kind is taken by the Agricultural Produce Market Committee, Islampur in those villages and therefore, by recourse to section 126 of Village Panchayats Act it is entitled to levy such cess.

2. These villages were covered by a notification issued by the Government of Maharashtra in exercise of its powers under section 4 of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (hereinafter referred to as 'the Act'). The factum of such notification having been issued is not denied. The only reason given for such levy and collection of fees from the markets situated within the jurisdiction of the village panchayats as aforesaid is failure on the part of the APMC, the Petitioner herein to do what it is required to do under the Act.

3. Taking into consideration the provisions of section 4 and section 31 of the APMC Act, it may not be possible for us to uphold the contention raised on behalf of the village panchayats.

4. Section 4 of the Act specifically provides for a notification regarding the declaration of regulation of marketing of any specified agricultural produce in a

specified market area. That such notification in relation to Respondent Nos.5 to 7 was issued cannot be disputed factually. The wordings of section 4(1) clearly point out that after the issuance of notification under section 4 nobody else that is no other authority would be entitled to regulate the marketing of certain specified produces except agricultural market produce committee of that area. By reason of sub-clause 2 of section 4, even an establishment or authorisation of market or continuance thereof is prohibited. In such circumstances, taking into consideration the provisions of the Act as contained in sections 4 and 31, the power to collect market fees or cess vests exclusively in the committee. That being the position, the petitioner is entitled to the prayers made herein.

5. We direct that Respondent Nos.5 to 7 shall not collect any cess/fees or taxes in respect of the sale and purchase transactions of cattle, sheep, goats in the cattle bazaars held in their respective villages as holding of such a bazaar in itself is without jurisdiction or authority of law.

6. Rule therefore, made absolute in terms above. There shall be no order as to costs.

7. Petition is disposed off accordingly.